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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,118	03/15/2002	Arjen Brandsma	2002-1002	8086

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EXAMINER	
CHARLES, MARCUS	

ART UNIT	PAPER NUMBER
3682	

DATE MAILED: 04/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/088,118	Applicant(s) BRANDSMA ET AL.
	Examiner Marcus Charles	Art Unit 3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 December 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *15-22 and 24-35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *29-32 and 34* is/are allowed.

6)☒ Claim(s) _____ is/are rejected.

7)☒ Claim(s) *16,18,19,21,22,33 and 35* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This action is responsive to the amendment filed 12-19-2003, which has been entered. Claims 15-22 and 24-35 are currently pending.

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. This application, filed under former 37 CFR 1.60, lacks formal drawings. The informal drawings filed in this application are acceptable for examination purposes. When the application is allowed, applicant will be required to submit new formal drawings.

Claim Rejections - 35 USC § 102

> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 15, 17, 20 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Okawa et al.(4,579,549). Okawa et al. discloses a belt comprising a plurality of nested metal rings (20) interacting with transverse elements (15). Okawa et al. further discloses that it is well known for the nested rings to have clearances between the abutted rings (col. 1, lines 25-42 and col. 3, lines 40-43). Therefore, it is apparent that there exists a small mutual play with a nominal value of zero between each adjacent ring.

Regarding claims 17 and 20, it is apparent that the play between the innermost

pairs of adjacent rings are of a negative value and that of the outermost pairs of adjacent rings is of a positive value.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okawa et al. Okawa et al. does not disclose the relationship between thickness and the material properties of the innermost and outermost rings with the in-between rings. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the thickness of the innermost, outermost and in-between rings so that the outermost rings are les that the nominal thickness or twenty percent of the average value of that of the in-between rings, since examiner has taken official notice that such a modification would have involve a mere change in size of the belt. A change in size is generally recognized as being within the level of one of ordinary skill in the art. In Rose, 105 USPQ 237 (CCPA 1955).

In addition, It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the rings such that the material composition of the rings differ such that elasticity of the innermost and outermost rings are lower that that of the in-between rings or at lesser twenty percent less that that of the in-between rings. since examiner has taken official notice that it has been held to be within the general skill of a

worker in the art to select a known material on the basis of its suitability for the intended use as a matter of design choice. In re Leshin, 125 USPQ 416.

Allowable Subject Matter

6. Claims 29-32 and 34 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

7. Claims 16, 18-19, 21-22, 33 and 35 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments filed 12-19-2003 have been fully considered but they are not persuasive. Applicant contended that none of the prior art, in particular Okawa et al. recited a nominal zero value of play by positive and negative numbers and using both numbers between the pairs of adjacent rings in order to realized a zero nominal. In response, it is obvious reciting a negative play as with Okawa et al. or a positive play as with Suzuki does not mean a combination of a positive and negative play is not inherent in, in particular, Okawa et al. In order to have a negative play there must be a positive play. Therefore, a nominal of zero is inherent in all cases where a play is realized. Regarding arguments relating to claims 24-27, it is inherent that whenever the thickness of the rings are considered the sized of the belt is affected. Therefore, the rejection is deemed to be proper.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (703) 305-6877. The examiner can normally be reached on Monday -Thursday 7:30 am-600 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on (703) 308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Marcus Charles
Primary Examiner
Art Unit 3682
April 05-2004